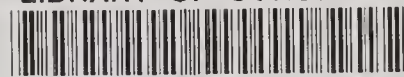


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A D D R E S S

DELIVERED BEFORE THE WHIGS OF NEWARK,

JULY 4th, 1834.

BY OLIVER S. HALSTED.

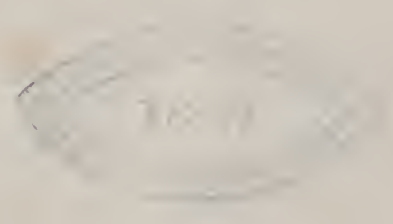
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ADDRESS

DELIVERED BEFORE THE WHIGS OF NEWARK,

JULY 4th, 1834.

BY OLIVER S. HALSTED:

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J. B. PINNEO & CO. PRINTERS,

Newark, N. J.

1834.

Wednesday morning, July 9th, 1834.

To OLIVER S. HALSTED, ESQ.

DEAR SIR :—The undersigned have it in charge to convey to you the following Resolution, passed on the 7th inst. at a meeting of the Newark Whig Committee of Arrangements, for the celebration of the past National Anniversary.

“*Resolved*, That a Committee be appointed to express to OLIVER S. HALSTED, ESQ., our warmest thanks for his able exposition of the usurpations of the Executive Government, and for his eloquent vindication of the cause in which we are engaged, and to request a copy of his address for publication.”

In performing the duty assigned us, we cannot refrain the expression of a belief that public sentiment calls for a compliance with the wishes of the Committee, and that the circulation of an address replete with powerful argument and patriotic sentiment, will advance the cause of the Constitution and of Liberty.

With high respect, we are

Your Obedient Servants,

A. W. KINNEY,	} Committee.
C. C. WARD,	
A. C. M. PENNINGTON,	

To A. W. KINNEY,
C. C. WARD, and
A. C. M. PENNINGTON, ESQRS.

DR. SIRs :—In answer to your polite note, enclosing a resolution of the Committee of Arrangements, requesting a copy of the address delivered before the Whigs of Newark, on the 4th of July, for publication, permit me to say that it is only in reliance on the opinion the Committee have been pleased to express through you,—that the sentiments it embodies, may aid the cause of the Constitution,—that I am induced to furnish the copy requested.

Very Respectfully,

Your Obedient Servant,

OLIVER S. HALSTED.

ADDRESS.

FELLOW CITIZENS —

By the Declaration just read in our hearing, the Whigs of '76 consecrated this day to the cause of free institutions, the cause of Constitutional Government, the cause of the People against Prerogative.

This was no new warfare at that day. This same contest, to circumscribe prerogative within defined limits, had been the Whig cause for ages ; and this was the party, to which, as a people, our fathers belonged, in the great political controversy which has so long agitated the world, between absolute government and popular rights. To the interests of this great party, let this, its proudest day, be sacredly devoted. Our position, as soldiers in this warfare, we inherited from our illustrious sires. With the possession of all they won, has descended upon us the inalienable character of belligerents in the sacred cause of civil liberty. We are no man's men, but men of free institutions,—Freemen, pledged to a cause of principles. In short, we are not men of Cesar, but men of Rome.

With the inheritance of this fair land, we received the fairer inheritance of the character of American Whigs — the staunchest the world ever saw, and who achieved the noblest, and we trust in God the most enduring, triumph of their principles. This character we received unbought, from those who bought it at the price of blood, paid down in generous measure. The amount of that price I cannot now stop to tell, nor to enumerate the periods when, nor the fields on which it was paid. The duty assigned me on this occasion calls my thoughts in another direction.

Our British ancestors had made great progress in this cause of popular rights, previous to our Declaration of Independence, and had done more than any of the modern nations of Europe, in prescribing to the Lion of Executive power, the length of his chain. I will glance at their history at two points, to shew this progress.

About six hundred years ago, they obtained at Runnemede a charter of liberties from King John. The limited extent to which they then understood the eternal principles of freedom, as they were afterwards written out by their American descendants, is plainly visible in that transaction ; for though they obtained that charter at the point of their swords, yet it is, both in its form and in its provisions, a mere grant of privileges from the Crown. They were bold and fearless Whigs — worthy sires of that people, whose glory it is to have given to the world the Declaration of the rights of man ; yet the principles of this great cause had then been so partially developed, that they were willing to conduct their negotiation with their sovereign, on the basis, that one man could grant liberties to the body of the people.

The other period of their history to which I shall allude, is that of their revolution in 1688. For four years immediately preceeding that period, one continued struggle had been kept up between the people and the crown. In that year, King James II. was deposed, on the charge, among other things, of “having endeavored to subvert the constitution of the kingdom, and having by the advice of Jesuits and other wicked persons, violated the fundamental laws ;” and the crown was settled on the Prince and Princess of Orange. It appears that at this time, the British people had become better instructed in the principles of civil liberty ; for, instead of taking a grant of privileges from the king, as had been done from king John, the convention which settled the crown, annexed to the settlement, a declaration of rights in the people. This, though it still fell short of the true doctrine, was a great advance in the cause. It is, certainly, a much nearer approach to the true Whig principles, as settled in our Declaration, for the people to make declarations of rights in themselves, than for prerogative to make grants of privileges to the people.

Our immediate ancestors, then — our American fathers — were well descended. They inherited the highest spirit of civil liberty known to the Old World ; the best Whig blood of Europe ; and being settled here under forms of Colonial government, (allowed by the Crown) more free than that enjoyed in England, they soon outgrew the parent stock. In less than one hundred years from the period last mentioned, the sons of Brittons, in this Hemisphere, advanced to the full

comprehension of the doctrine of human rights, and proclaimed to the world as a self-evident truth, that “it is the right of the people to *institute Government, laying its foundations* in such principles, and *organizing its powers* in such form, as to them shall seem most likely to effect their safety and happiness.”—To the maintenance of this great truth, they dared to pledge all that is dear to freemen, and, praise to the God of battles, they made good in the field, what they had resolved in the council. We cannot now speak of their deeds of valor ; we will only say, it is easy for us who enjoy the fruits of their success, to say, ’twas nobly done. It is easy to imagine, that in the hour of trial, with the thick night of uncertainty, and the fearful odds of war, and fate of rebels before us, we, too, might have dared to resolve, to die or be free ; but with us ’tis all conjecture, we might have failed. There were men of that day, who bowed assent to the encroachments of power ; yes, there were Americans of that day, who cowered before a British Executive. I will not give them a name. I say, therefore, that with each and every one of us, ’tis all conjecture ; we, too, might have failed in that fearful hour, which tried and proved the souls of men.

To them alone, the Whigs of ’76, belongs the meed of proven valor. The only proof that remains to us, of kindred spirit, is by shewing a proper sense of the value of the inheritance, bought with the blood of such an ancestry.

I have thus endeavored to show, briefly, that the grand principle of the Declaration of Independence, is that all powers of Government are the grant of the people, in opposition to the monstrous doctrine that till then had ruled the world, that all popular rights are the grant of kings.

Our British ancestors had stopped short of perfect triumph, in stopping at a declaration of rights. This still left them in the false position in which the people are placed in relation to government, in the Old World. The truth is, they had been so long subjected to the vassalage of the feudal system, which was built on the principle, that they held every thing of the king, every foot of land, and every civil privilege, that it would have seemed to them a subversion of first principles, to declare that the powers of government must proceed from them by grant. The advance they made in the revolution of 1688, was perhaps, the greatest advance they could make, beginning from

their original false position. But our American fathers perceived, that this was beginning at the wrong end, and that the cause of the rights of man, could not fully and finally triumph in any other way, than by inverting the relative position existing in Europe, between the people and the government, and adopting the principle that it belongs to the people to declare, not *what rights they possess*, but, *what powers they will grant to government*; that “it is the right of the people to *institute government* and to *organize its powers* in such form, as to *them* shall seem most likely to effect *their* safety and happiness.”

Of this radical doctrine of the Declaration of Independence, the framers of our Constitution had a strong and clear conception; and they accordingly instituted that instrument, not upon the principle, that the government would have all powers, except such as were reserved to the people, but on the reverse proposition, that the people kept all power, not granted to the Government. On this principle, what have the people to do with declaring their rights? they have all rights — they have nothing to do but to declare, what powers they will grant to their agents, wherewith to govern them, and to what extent; the residue is with them ungranted. When we declare by the Constitution “all legislative power *herein granted*, shall be vested in a Congress,” the residue of legislative power, not granted, is with us. And when we declare by the Constitution “*the Executive power* shall be vested in a President,” and proceed in the instrument to declare the powers of the Executive, we plainly mean *the Executive power therein granted*. The residue of Executive power is with us. Was it necessary, then, to accompany the Constitution with a declaration, that we were not the subjects of the Executive, when we had in that very instrument told him, that we were his masters, and that he should exercise just so much power as we chose to vest in him, and no more.

The Whigs of Newark, of 1834, have resolved, that the day on which this great first principle was settled, that all powers of government are the gift of the people, is the appropriate day for the free discussion of the measures of the Executive branch of our Government, at this extraordinary crisis — and rightly have they so resolved. The questions now pending between the President and the Senate, and now to be tried and decided by the American people, are, first, is it true, that each department of the Government, has no more power than the people have specific-

aily granted to it ? and secondly, has our Executive exercised powers not, granted ?

The Senate have affirmed both these propositions. The President has denied them both, so far as the department he fills is concerned.

The Senate affirm that the President has *assumed powers not granted*. They tender the issue in the most precise and appropriate language of freemen. "The President has assumed powers not granted by the Constitution." This language, it will be perceived, contains an affirmation of the great principle of the Whigs, of '76, that all powers of Government are the grant of the people ; that our Executive has no power except such as is granted by the people's Constitution ; and that, when our Constitution says "the Executive power shall be vested in a President," it means the Executive power defined in the grant, and no more.

Now, extraordinary as it may appear, our present Executive claims an amount of power not defined in the grant, limited only by the limit which he pleases to fix to his own responsibility.

But before I proceed to develope what our *practical* Executive claims to be, I will attempt to shew what our Constitutional Executive is.

Before this protest appeared, Fellow Citizens, I had the honor of expressing, in this house, before an assembly of Whigs of the county of Essex on a similar occasion, what I supposed to be the genuine American doctrine ; I alluded to a phrase which is in frequent use among us, "the charter of our liberties ;" and condemned it as having no correct application to our institutions. It was observed, that we used the phrase, in allusion to the Magna Charta obtained by our British ancestors, from their king. That by the theory of their government, all their liberties were grants from the king ; that the people of that country, are the King's people, with such liberties as he has granted to them ; that here the case is reversed ; that the government of this country is the people's government, with such powers only, as they have granted to it. That in England, the burden of proof lies on the people, that here, it is on the government. That there, if the people seek to exercise a liberty or privilege, they may be told, look at the grant of your privileges, if you can shew it to be there, you can exercise

it ; but that here, if the Government seek to exercise a power, the people say to the Government, look to the grant of your powers, if you prove it to be there, you can exercise it. I will here add that the word "liberties," in relation to the people, belongs to the Old World : the people of Europe have liberties or privileges ; the people of the United States have rights. Here it is the *Government* that has liberties, or privileges ; there, the rights are in the Government, the liberties in the people. Here we have reversed the order of things ; the rights are in the people, the liberties, or privileges, in the Government. And the question now before the American people might well be put in this form : What liberties has the Government taken with our rights, and are we prepared to submit to such liberties or assumptions ? Some of these liberties will come under consideration, when I come to shew what our present Executive claims to be. I proceed in my present inquiry, what our Constitutional Executive is. In a Constitutional government, a certain amount or mass of power, as much as the people think necessary for the government of themselves, in the way in which they are willing to be governed, is delegated by them in a written instrument called a Constitution. Our Constitution does not put all this amount of power in one man's hands ; nor does it provide that the Executive shall be the residuary grantee of the instrument ; that is to say, it does not provide, that he shall have and exercise all powers of government not granted to the other departments. It distributes the powers intended to be granted, in distinct portions, to and among three departments of government ; to one, it gives the power to make laws, to another, the power to construe them when made, and to the third, the power to execute the laws as made and construed. The last is called the Executive ; and for the purpose of enabling him to execute the laws, as made by the Legislature and construed by the Judiciary, the instrument puts into his hands the physical power of the nation ; that is to say, the army and navy ; but it does not give him the right to raise an army, it only gives him the command of it when raised ; nor does it give him the purse to pay the army, for though he could not legitimately raise an army by the Constitution, yet it was clearly seen, that it would not do to give him the purse ; for the power to pay men, might enable him to raise an army. And of this we have demonstrative proof in this reign, in the effects of the

power of pay now concentrated in the hands of this Executive. The power of removal from office, the power of *creating vacancies*, by removing those who will not, and filling their places with those who will serve ; a power, for which no words of grant can be found in the instrument, but a power, construed to exist in him, together with the further power which his prime minister put into his hands, by adding to the Cabinet, the Post-office department, and thus adding to his own immense patronage, the almost unlimited patronage, and the unlimited secret-service fund of that department, has accumulated in his hands a power of pay, that has raised an army, which stands ready to back him for the third term, if he shall not see fit to name his successor.

I am speaking now of the direct money power. The Constitution, as we understand it, don't give to the Executive the money of the nation ; what his partisans get of the people's money must be drawn indirectly and applied covertly, under color of mail-contracts, or job-printing, or some such device ; such, for instance, as \$8,386.50, paid to Fran is Blair for printing proposals for carrying the mail, for two months and twenty-two days immediately preceding the Presidential election ; a handsome bonus to the printer for the Executive, the editor of the official Globe, by way of keeping up a pure press, a pure idolizing press, a pure post-office press, *hired* to call honest men *hirelings*.

There is no provision, then, in the Constitution, that the Executive shall have the purse. That is placed under the guardianship of the Legislature. Nor is there any provision that if the Legislature shall commit its keeping to the discretion of any officer appointed by the President, it shall be considered to be at the responsibility of the President, and he may therefore put it where he pleases. Nor is it provided, that if such officer shall undertake to exercise an independent discretion, it shall be just cause of removal. There is no provision in the Constitution making the Executive answerable for the morals of the people, and therefore if a monster should grow up among us, with the faculty of charming men out of their principles and integrity, the Executive is not required by the Constitution to undergo the tortures of ten Spanish inquisitions, to restore his subjects to their honest senses. There is no provision in the Constitution that the executive is the natural guardian of the liberties of the

people. This defect, now supplied by the President, may be accounted for, from the fact that our fathers had quarreled so long and so recently with their old guardian, the British king. Nor is there any provision in the Constitution that the executive is the "direct representative of the American people." (This is the language of the Protest.)

But what sort of an Executive am I getting? I dare say it has occurred to some of you that I have described such an Executive as the present incumbent of that department will not be satisfied with; for he has claimed all these powers, for which I have said, there is no provision in the Constitution. I have been inquiring what our Constitutional Executive is; and my inquiry results in the opinion, that it is a kind of Executive not known to the Old World, and not constituted after any of their models, that it is simply an American Executive, that it is just such an Executive as the American Constitution creates by positive provision; not an omnipotent Executive, except so far as has been shorn down, (which, as I have said, is the description of the British Executive,) but a powerless Executive, except so far as it has been built up by the Constitution.

I will now attempt to shew what our present Executive claims to be. I have already intimated, that he is not at all satisfied with the measure of power we would assign to him, that is the strict measure of Constitutional grant; and here we reach the ground of the controversy, now waged by our Executive against the American Senate.

The Senate, the only department of the Government now standing true to the letter and spirit of the Constitution, are in the breach, boldly declaring to the Executive, that he has overstepped his powers, and insisting that he shall be confined within the limits of his specific grant. The presence of one of that patriotic body on this occasion, is indeed animating to the hearts of freemen. When the duty assigned to me shall be performed, may we not hope to hear, in the thrilling accents of our own Frelinghuysen, what he yet thinks of the question, as it has been put to us in the language of one of his associates, "whether the Senate be a faction, wantonly resisting lawful power, or whether it be opposing with firmness and patriotism, violations of law, and inroads upon the Constitution."

In the short space allotted to this exercise, I cannot go so fully as I could wish, into the nature of the particular act of the

Executive that brought on the direct collision between him and the Senate. It was the removal of an officer, in whom Congress had vested a discretion over the public treasure, because that officer would not remove the treasure from a safe place, to unsafe places, at the bidding of the President; because he would not yield his sworn discretion and act in opposition to it. In short, it was the removal of an officer, by the Executive, because that officer was incorruptible.

Is it not plain, that the Secretary had made up a conscientious judgment on the question of removing the deposits? He was the President's friend, and would gladly have thought with him. Is it not plain, that for the Secretary to act in opposition to his own sense of duty, would have been corrupt? Did not the President endeavor to induce him so to act? and did he not remove him, because he could not succeed? Yes, Fellow Citizens, all the mystery "in the soul of state," and all the mystification of both cabinets, cannot disguise the truth, that in removing Duane, the President took the responsibility of removing an officer, *because* that officer was incorruptible. Which of the names of all his predecessors, can any man in imagination associate with such an exercise of the power of removal! In this act Gen. Jackson assumed another kind of responsibility, the responsibility of throwing out in the face of the nation, demonstrative proof of the correctness of a great man's estimate of his character, who said of him, years before this developement, that in the way of any settled purpose of his mind, neither laws nor constitution, would oppose any barrier. Is it not true, that by the very genius of our system, the President, of all other officers in the nation, is denied, and excluded from, any control over the public monies? Is it not true, in the United States Government, as it is in all the State Governments, that the Legislature hold the purse? Will any man gainsay these positions? Has not the President assumed such control? He avows it, calls the removal of the public monies from where the Legislature had placed them, his act, his measure. He really seems to think he is playing the game of the soldier, and that the more he dares, the more his people will admire him, even though it be in daring to trample on their laws. But I choose to make good my position by proof. I care not to avail myself of his arrogated responsibility. I charge him with assuming a control over the public money. I prove it by shewing that he has assumed to control

the discretion of the officer, to whose keeping it had been entrusted by the Legislature. Did he not wantonly interfere with that discretion? What concern had he with the subject matter of that discretion? what right had he to demand of the Secretary, on pain of official death, a reason, either for moving, or not moving the deposits. The law required the Secretary, in relation to this part of his duty, to reason with Congress, not with him. Did he not attempt to control that discretion, by obtruding his own opinion, and offering his own responsibility, instead of that discretion? by the authoritative language sounded in the Secretary's ears the very day after his appointment, "the President has determined that the deposits must be moved, you may call it my measure;" by giving the Secretary to understand, that if his discretion could not agree with the discretion of the President, the President would expect him to resign? And did he not effectually control the discretion that was set at the door of the treasury, when he removed from before that door, an opposing discretion, and substituted a form, representing his own discretion? Did he not make his key of the officer, a key to the office? The discretion of the Secretary was the law of the case. It was the law for the Bank, it was the law for the government. Both the contracting parties had agreed, to submit the propriety of removing the monies from the Bank, to the Secretary of the treasury. Had either of the parties agreed to submit that matter to the discretion of the President? Is it not plain, that the President's duty of faithfully executing the law, required him to protect the Secretary against all interference with his discretion; instead of that, he himself interferes with it, overrules it, annihilates it, and thus violates the law he himself was bound to respect and execute. But is it true, that the President, as well as others, was bound to respect this law? Is it true, that this discretion of the Secretary, was independent of the President? What the President may now think of this question, I cannot say, further than I can speak from the protest. If that expresses the opinion the President now entertains, then he now thinks, that the Secretary is his mere instrument, and cannot have an independent discretion; but that he once considered the Secretary's discretion to be independent, we have his own words. How did he approach him? In the same paper in which he says to the Secretary, "I will take the responsibility of the act, it may be called my measure," he

proceeds to say, "yet, sir, I will not undertake to interfere with the *independent* exercise of your discretion." What do these words mean? Do they not prove, from his own lips, our whole case in all its length and breadth? Do they not admit that the law had vested in the Secretary, a discretion independent of the President. And when he says, "I will not undertake to *interfere* with your discretion," does he not admit, that to meddle with it, would be *interference*, and what is interference, but meddling in a matter in which one has no concern. Is it not amazing, that after such an admission from his own mouth, the President should have proceeded to the extremity, of taking the official life of the Secretary, for the independent exercise of that very discretion, with which he, the President, thus admitted he had no right to interfere. But, it may be asked, can this be possible? Is there not some mistake in this matter? If any such admission is contained in that language, could the President have been so short-sighted as to use it? This is explained in a moment, by calling your attention to the precise point of time, at which this language was used. Can it be supposed he would have made this promise not to interfere, and this admission of his having no right to interfere, if he could have foreseen, that Mr. Duane, by his firmness, would put him to that very interference in undisguised form, by the hand of power, in removing him? No, Fellow Citizens. This disclaimer of the right of interference, was made at that particular juncture, when the President became satisfied, that he had found his man. The President deceived himself into this condemning admission. It was made at that period, when he was satisfied that the Secretary would either yield his own discretion, to the more commanding discretion of his great and good friend the President, or resign. It will be remembered, that there was a time when it was the understanding of the President, that Mr. Duane was pledged to resign, if his law-imposed discretion, could not coincide with the assumed discretion of the President. In this posture of affairs, it was thought safe for the President to say, "I certainly will not undertake to interfere with the independent exercise of your discretion." And there was a policy in using this language at that time. The message to the Secretary was, "the President has determined that the deposits *must* be moved, I take the responsibility, call it my measure." This, it was thought, would ensure the act required of the Secretary, but

If nothing more was said, and the Secretary should comply, it might look too much like dictation on the part of the President, and uninquiring devotion on the part of the Secretary, and therefore these words, "I will not undertake to interfere," &c. were thrown in, to screen both the President and the Secretary, before the people, by persuading them, when the act should be done, that it was done, on the *independent discretion* of the Secretary. But things took an unexpected turn: Mr. Duane, on more reflection, refused, either to perform the act dictated, or to resign; that is, as was said on the part of the President, Mr. Duane deceived him. And it will be remembered, that Mr. Duane's refusal to resign, upon the alleged promise so to do, if his discretion should not prove to be of the right sort, was in the excitement of the moment, openly made a ground of justification before the nation for turning him out. Mr. D. had made an Indian gift; he first gave the President his discretion, upon the strength of which gift, the President disclaimed all right to interfere with it, and then took it back again, and obliged the President to exercise the very right he had thus disclaimed. But the fact that the President, as it turned out, was mistaken in the character of Mr. D., does not relieve him from the admission then made, that the Secretary's discretion was independent, and that he had no right to interfere with it.

But, though this is a truth the President once admitted, yet no other branch of the Government can be permitted to express it, if the President should think fit to act in opposition to it. Whatever the king may think, yet when he comes to act, he *can do no wrong*.

What more did the Senate do, than declare this same principle, when, after the President had assumed a control over the public revenues, by controlling the discretion of the Secretary, they resolved, that he had assumed powers, not granted by the Constitution and laws, but in derogation of both.

But no sooner had the Senate passed this resolution, when lo! the President, fearful that prerogative might lose in his hands, and determined to transmit to his successor, unimpaired prerogative —

"Generous he rises in the crown's defence,
To curb the factious tongue of insolence;
Such just examples, on offenders shown,
Silence sedition, and assert the throne."

He sends to the Senate, and publishes to the people, this paper which I hold in my hand, this *Protest*. And it is indeed nothing short of the assertion of a throne. Before this protest appeared, we had been accustomed to say of the President, that he had not redeemed a single pledge on the faith of which he came into power. If the doctrines of this protest be true, he has certainly relieved himself from that reproach; it fully and fairly redeems one of his pledges, the pledge that he would reduce our Government to a simple machine.

I can take, on this occasion, but a cursory view of this extraordinary State paper.

Its first position is, that the Senate have no right to express disapprobation of the President's conduct. In answer to this, I will only take time to say, that we read, that in England; "it is no sedition to deny to the *King*, the prerogative of suspending the law."

But again, it asserts that Congress cannot vest a discretion over the public monies, in any officer appointed and removable by him, without vesting that discretion constructively in him. That though such officer may be *nominally*, yet that he, the President, is *really and truly*, the keeper of the purse, because he is the keeper of that officer's discretion. That he is the keeper of that officer's discretion, because he is responsible for his acts: and that he is responsible for his acts, because he has the power to remove him.

This is the plain doctrine of the protest. And the first question that irresistibly suggests itself, is, How is it to be accounted for, that the same man who before the act was done, could say to the Secretary, "I will not undertake to interfere with the independent exercise of your discretion," could, after the act was done, declare that the Secretary had no independent discretion, but was his mere instrument, and that Congress cannot vest an independent discretion in any officer appointed and removable by him? It can only be accounted for by supposing, that before the act was done, the President had been deceived by Mr. Duane into an unguarded admission; or that he changed his opinion, when it became necessary to justify *an act done*. It is clear that the two papers are the production of two different minds, or at least of two different states of mind.

The chain of reasoning as before deduced, it will be perceived, runs back and rests upon the power of removal. This

single power, is the grand source of his sole responsibility for all officers removable, and his sole responsibility is the foundation for his exercising his sole will. • And I admit that unless this chain of reasoning can be broken at some point, the Government is logically and truly “My Government.”

I propose therefore to examine briefly, the origin and nature of this power of removal. And here it will be interesting to observe the solicitude of the President, that it should be fixed on a stable foundation. It was a saying of Archimedes, that if he could find a fulcrum for his lever, he could move the world. And, if the President’s deductions from the power of removal be correct, if he can settle that power firmly, it is unquestionably true, that he can move the whole machinery of Government.

We have been in the habit of supposing that this power in our Executive, has no other origin than the mere legislative construction of the first Congress; no words giving it, are to be found in the Constitution. But the President is unwilling that a power of such immense importance in his system, should rest on a mere construction. He seems to have feared that this was too slender a foundation for his system of constructions. He first construes a sole will or discretion in himself from his sole responsibility; then construes his sole responsibility from his power of removal; and having thus raised two constructions upon the power of removal, he seems to have been unwilling to allow, that that power, the foundation of both the others, was itself but a mere construction. This looked to him, too much like building a house in the air. He therefore goes beyond our Constitution for this power, and declares that the words in that instrument, “The Executive power shall be vested in a President,” do not mean the Executive power defined in the grant, but that they give him *original Executive power*, and that the power of removal, is an original Executive power, *left unchecked* by the Constitution.

I quote the words, “In strict accordance with this principle, the power of removal, which, (like that of appointment,) is an *original Executive power*, is *left unchecked* by the Constitution,” except as to the Judges. He thus gets an immovable, real, not constructive foundation, for this power of removal, by drawing it from a source beyond and prior to the Constitution, and saying that the Constitution left it unchecked in his hands.

From what source does the President derive his idea of ori-

ginal Executive power? What standard of original Executive power, has he adopted? If it had not been for his reference, we should have been at a loss to know, whether his standard was that of Austria, or of Prussia, or of the Autocrat, or of the British King. Indeed I have always understood that *original* Executive power, was the same in all the Kingdoms of Europe, that there was but one standard, that it was neither more nor less than the divine right of Kings. His reference to England for his standard, is not at all happy. Original Executive power, is not to be found, short of the dominions of some of the Continental Kings. The British King does not enjoy it. It is true that he enjoys original Executive power, so far as it is *left unchecked* by declarations of rights in the people. And this makes it exceedingly evident, where the President's thoughts were running, when he penned, or read the idea, that the power of removal is an original Executive power, *left unchecked* by the Constitution. Permit me now to mention, that on the occasion before alluded to, I asked this question, Who knows what effect the expression, "the charter of our liberties," and such like expressions, may have had on the mind of *the Government*. It is evident what effect they have had on the mind of the writer of the Protest. They have disabled him from forgetting and repudiating the political vocabulary of Europe, and adopting the political vocabulary of Freemen. The idea of original Executive power is not American, it belongs to the old world and their institutions. In America, Executive power has *no origin*, except in specific constitutional grant, and *no measure*, except the measure and extent of that grant.

But our present Executive is not the man to let Prerogative suffer abatement in his hands, nor to transmit impaired Executive power to his successor. And perhaps his solicitude to preserve, and transmit unimpaired, the Executive power of our system, as it is now used and exercised by himself, may furnish another reason for his advancing, at the time he did, the idea, that the power of removal was an original Executive power, left unchecked by the Constitution. It will be recollected, that at the time the protest was written, there was an offered resolution on the Senate's table, that might come up for discussion, declaring, in opposition to the opinion of the first Congress, that under our constitution, the power of removal from office did not exist in the President. It may have been supposed therefore,

to be not only an appropriate time, but a duty resting on the President, and belonging to that class of duties falling under the head of seeing the laws faithfully executed, to apprise Congress at once, that it was impossible to disturb the President's power of removal, that whether it could or could not be drawn from the Constitution, by construction, was immaterial, for that it was an original Executive power, and that it was *left* in the hands of our Executive, *unchecked by the Constitution*. Whether it was this intimation from the President, or the want of time, that prevented that resolution being debated by the Senate, I will not undertake to say.

But notwithstanding his claim of the power of removal, beyond the Constitution, as an original Executive power, yet the President does not waive the claim by construction, under the Constitution, on the authority of the first Congress. And now I come to the true origin of the doctrine of the power of removal in our Executive, for I presume that few will be found willing to accompany the President beyond the Constitution, in search of it.

Does, then, the Constitution grant this power? All will admit, that it is in vain to look through the instrument, for any *words* containing the grant. The only power of removal from office, provided for in terms, by the Constitution, is, the power of removal by the Judgment of the Senate in cases of impeachment of officers. As to the power of the President alone, distinct from the Senate, over officers and offices, the only provision is, "the President shall have power to *fill up* all vacancies that *may happen* during the recess of the Senate.

The first Congress under the Constitution, by a barely preponderating vote, upon considerations of supposed expediency, decided, as far as legislation by one Congress can decide a Constitutional question, that the President had, *by construction*, not only the right to *fill up* vacancies that *might happen*, but also, the right to *create* vacancies; that is, saying the solecism, to *cause* vacancies to *happen*, and then fill them up.

It is not necessary to my present purpose, to enter into an argument, on the correctness, or incorrectness, of this opinion of a meagre majority of the first Congress. Let every man make up his own opinion on the subject, under the influence of the flood of light, which experience has shed on it, since that vote of the Congress of '89.

My present object is to shew, that the concession of this power of removal, was by mere construction. And this will appear from the nature of the arguments used in that Congress, for and against its existence. It will be recollected that Washington was then President, and that that staunch Democratic Whig James Madison, was one of those who yielded the power. If he could become willing to yield power by construction, to the federal Executive, we might expect it of him more certainly, during the Administration of Washington. That the character of Washington had a powerful influence on his mind, in deciding the question, is abundantly plain from the reason he gave for his vote. That wise, but in this instance too confiding patriot, not too confiding from any thing that had then occurred to excite apprehension, but too confiding for the day of naming successors, (he had had no vision of these days,) that same patriot, has left us, as the reason of his vote, that he was willing to accord the power on the principle, that an eminent degree of probity in the Chief Magistrate was to be presumed. And he at the same time declared, that there was another protection against its abuse, for that "the wanton removal of meritorious officers, would subject the President to removal from his own high trust."

It should here be remarked, that this power was not asked nor sought by President Washington : the question came up incidentally.

Those of that Congress who denied its existence, and there were names of equal weight, who, notwithstanding their equal willingness to trust power in Washington's hands, did deny it ; denied it on the ground that such a power under corrupt influence, might utterly destroy that balance of the powers of Government, which had been adjusted by the Constitution, and give to the Chief Magistrate an undue and dangerous control : that with such a power in his hands, the Government might be made the Government of his will.

Now it will be perceived that the position taken by each side in this argument, was acknowledged by the other to be correct. Those who denied the power, admitted, that in the hands of eminent probity, it would be harmless. Those who conceded it, admitted, that under corrupt influence, it would be destructive. Of the truth of the first position, we have had the most gratifying experience through the Administration of every Pres-

ident down to the accession of General Jackson. The Administrations of Washington, Adams, Jefferson, Madison, Munroe, and the younger Adams, all gave gratifying evidence of the truth of the position, that such a power in the hands of eminent probity, is harmless. Recollect—pause a moment, and let the idea make its impression, — each and every one of these Presidents possessed this same power of removal, that General Jackson came into possession of. Has he, or has he not, exercised it on a different principle from that on which it was exercised by his predecessors, one and all of them? Can any man shut up his senses from the perception of the glaring truth, that when General Jackson came to the administration of our *Executive*, this power of removal was immediately converted from a *simple oar*, the only use that all the other Presidents had made of it, into the very *helm of State*. Not one of his predecessors permitted himself to make it a business to make the most of this power, and to try, to its full extent, its controlling influence over the machinery of our Government. Therefore, through all their Administrations, it proved to be harmless, and the experience of all that lapse of time, seemed to have established the safety of Mr. Madison's position.

On the other hand, those of the first Congress who were willing to concede the power, admitted that in the hands of a man disposed to make the most of it, it would be destructive. Will any man say that the present Executive has not made the most of it? And does not the present posture of our affairs prove the correctness of the position taken by those who denied its existence, that it might be made the instrument of accumulating overgrown power in the hands of the Executive? The advocates of the different sides of this question, differed only here. One side thought it supposeable that the Executive might fall under corrupt influence, and therefore denied the power. The other side thought it not supposeable, and therefore conceded the power. Have we not sufficient experience before our eyes, to shew us that Mr. Madison's supposition is a fearful ground, on which to rest the safety and permanency of our institutions.

But enough has been said to shew that this power of removal is a mere construction. I remark in the next place, that *either* President Jackson is wrong in his inferences from it, *or* the first Congress were wrong in conceding it; for it is not to be

believed, that they intended to give him what he unhesitatingly claims through it—the custody of the public money.

And here it becomes necessary to look at the extent of the President's inferences. No one of the former Presidents seems to have had any conception of the reach of this principle, nor to have dreamed where, from this principle as a starting point, an apt reasoner might soon arrive. But Gen. Jackson's superior aptness at construction, has enabled him to infer from the power of removal, a responsibility of equal extent, that is to say, that he is responsible for the official conduct of every officer he can remove; this is his first advance, by construction; next, from this inferred responsibility, he again infers or construes, that the discretion of every such officer must be subject to his discretion, otherwise he cannot be responsible for him. This is the second step in the argument, and now comes the conclusion: When Congress, therefore, subjected the public money to the discretion of an officer removeable by me, they, by necessary construction, subjected it to my discretion. The doctrine of the protest, is, that Congress cannot vest a discretion over the public money, in any officer removable by him, without vesting that discretion in him. It boldly asserts, that the power of putting a man out of office, makes him, legally and constitutionally, the mere instrument of the President while in office, and that he can have no will or discretion, opposed to the will or discretion of the President. Its language on this point is as follows: "The Secretary of the Treasury being appointed by the President, and being considered constitutionally removable by him, it appears never to have occurred to any one in the Congress of 1789, or since, until very recently, that he was other than an Executive officer, the mere instrument of the Chief Magistrate, subject to his supervision and control."

He thus makes good his first position, that the Secretary of the Treasury, like all other officers removeable by him, is his *mere instrument*, subject to his supervision or control.

Here the Legislature may be supposed to ask, cannot we repose a special trust in the secretary of the treasury, and by express provision of law, refer it to him to judge, independently of the President, whether the money shall be moved from the place where we order it put? Does the fact that he is removable by the President, make it impossible for us to con-

stitute him the judge, without constituting the President the judge? And does not *the provision* in the law, that the revenues shall be deposited in the U. S. Bank, “unless otherwise ordered by the secretary,” upon reasons to be given by him, to Congress, and *not to* the President, constitute him the judge, independently of the President? And what is the unblushing answer of the Protest, to this question! The difficulty, in any mind, will not be, in at once scorning the answer, but in believing, that any man could be found to venture such an answer in the face of the American people. The answer is not given, in the blunt NO; no law can vest in an officer, removeable by the President, a discretion independent of his will, but is given in this more courtly phrase, in the Protest —“It is not to be considered, that *this provision*, in any degree, altered the relation between the Secretary of the treasury, and the President;”—that is to say, before the law made that provision, the Secretary was his mere instrument, subject to his supervision and control, and that provision “is not to be considered as having in any degree altered the relation between the Secretary and him;” he remained his mere instrument as before, and still subject to his supervision and control, in the matter of the money, as in all other matters; the effect of the law was, that the monies should be deposited in the U. S. Bank, unless the President should otherwise order and direct.

“It would be an extraordinary [the language of the protest] result, if because the person charged by law with a public duty, “is one of the Secretaries, it were less the duty of the President “to see that law, (duty) faithfully executed.” That is to say, it would be very extraordinary, if, when the Secretary or mere instrument of the President is charged with a duty, the President is not charged with that duty. It would be very extraordinary, if, when a control over the public money is vested in his Secretary or mere instrument, it is not vested in him. It is a mistake to suppose that Congress can vest in his officer an independent discretion. The question, it will be perceived, between the President and the Senate, on this part of the subject, is simply and plainly this: The Senate hold, that the Legislature can give the custody of the public money to an officer appointed by the President, and removable by him, without necessarily giving its custody to him. The President in this protest denies that any such thing can be done.

Let us now return to Mr. Madison, and ask him, if he had any adequate notion of the tremendous power of construction, when he construed the power of removal from office, to exist in the President. What would he say? Would he admit that he had been wrong? or would he say that Gen. Jackson's constructions were wrong? Which he would say, I will not guess; but one thing I know: he would say that one or the other of them, was certainly wrong.

If Mr. Madison, and those who with him advocated the constructive power of removal from office, could have seen that it was a fair inference, that every officer removable by the President, was legally and necessarily the mere instrument of his will — if they had had the sagacity to make this step in the argument, I think they would have paused; for they would have brought themselves within plain sight of the conclusion, that the admission of the power would, by necessary construction, place a sovereignty in one man's will.

To what school of politics Gen. Jackson really belongs, I will not undertake to determine. They who support the doctrines of his protest, particularly the leaders, profess now to be real disciples of the democratic school, either original, or lately converted. Will some such genuine democratic leader, inform me, how long it is, since democracy became fond of granting power to the Federal Executive, by construction. I suspect, that if we look into the history of democracy a little, this facility of granting constructive power to the Executive, will be found only among lately converted democrats. Old-fashioned democracy, was but another name for the lynx-eyed jealousy of Freemen against the growth of Executive power. More especially, will any such leader inform me, how long it is since democracy became willing to grant to the Executive, (always the object of its peculiar distrust,) a control over the *public treasure*, by construction. The true spirit of democracy, of all its characteristics, is marked by none more strongly, than by its unsleeping watchfulness over the public treasure. It is that spirit which wields the flaming sword at the door of the treasury, turning every way, to meet and repel the approach of Executive power. No call for treasure, reaches the ear of that spirit, except the voice of the Legislature. No hand has been able to turn aside the point of that sword, but the hand that presented the order of the Representatives of all the peo-

ple. We have heard of laying spirits. I ask, has this sleepless spirit of Democracy been laid? Has the figure of the Monster that lives in the imagination of the President, and haunts his dreams with visions of his dear people ruined soul and body by its corrupting influence, and which induced him, good man, to present himself before the door of the treasury, and entreat the spirit that guarded it, to confide the treasure to his keeping, for the protection of the morals of the community; has that same figure haunted also the dreams of democracy, laid its watchfulness asleep, dispelled its long cherished jealousy of Executive power, or so distorted its vision, that it can now see in a strong Executive nothing but the kind guardian of the liberties of the people, the preserver of their morals, and the rightful keeper of the nation's purse? A vast deal has been done to lay this spirit. The Post Office Department and a post office press, have been put in requisition to lay this spirit, by the soothing enchantment of glorification of the Executive, on the one hand, and horrid imprecations, on the other, upon a fiscal agent of the Gov't, which, after a useful life of near 40 years among us, under two charters, is said to have suddenly developed the features of a hydra, preying upon the liberties and morals of the people, and therefore is not to be suffered to live. But after all the treasure expended, and all the labor of a subsidized press, to withdraw republican jealousy from an encroaching Executive, by attempting to fasten it on another object, the spirit of democracy is not laid. It is but a bastard spirit, that may have been conjured and laid. The true democracy of the country is still broad awake, enquiring for the treasure: and where does it enquire? It enquires of Congress — where is the nation's treasure? I find it not where the law placed it; is it where the law has not placed it? And when to this question it gets no answer, my word for it, it will hold Congress responsible for the sufficiency of the reason, why the treasure is not, where the law placed it. I think I see the true spirit of democracy, in embodied form, taking its stand in the rotunda of the Capitol, and sending its voice through all its halls — “I hold the Representatives of all the people, responsible for the sufficiency of the reason, why the treasure is elsewhere, than where the law placed it.” And I think I see Gen. Jackson enter the Rotunda, with an air expressive of a confidence of appeasing this spirit, with the Protest in his hand, and hear him

read from that Constitutional text book — “I am the direct representative of the American people” — I am responsible for the treasure. And I hear the spirit, in amazement, answer — You the representative of all the American people ! Do you fill all this building ! ! What a monster ! ! !

I will now attempt to find the application of the phrase, so often used in connection with his removal of the Secretary of the Treasury, *that it is the President's duty to take care that the laws be faithfully executed*. These words were resorted to, for justification, very early. As soon as the act was done, that men might not be betrayed into contradictory modes of justification, the official Globe threw out for immediate use, that the President was only taking care that the laws be faithfully executed. All would adopt this, for the very reason, that none could see its application ; they would fear to give another reason, lest it might afterwards be found to contradict the unknown meaning of this. At a very early meeting of the citizens of Newark on this subject, I took the liberty to throw out the idea, that these words could have no possible application to the subject, unless the President took the liberty to misread the law, and to read *must*, for *may*, that is, unless the President, instead of reading the law as it is in substance, the Secretary *may* remove the deposits, read it, the Secretary *must* remove the deposits.* It appeared to me, that this was the only possible way in which this boasted duty of seeing the laws executed, could be made to have any possible bearing on the case, and from the manner in which the suggestion was received by that meeting, I believe it was thought by them, as well as myself, that if that was the only application the words could have, it was an application laughably absurd.

What was my surprise, when the protest appeared, to find that this was the very application given to those words, by the writer of that instrument. You will not find it in this palpably absurd form ; it is dexterously elicited — the idea is thrown out in halves, in two disjointed paragraphs. In the first paragraph I shall read from, this language is used — “It cannot be doubted that it was the legal duty of the Secretary of the Treasury to order and direct the deposits of the public money to be made elsewhere than in the Bank of the U. S. whenever

*The provision of the law is, that the deposits shall be made in the United States Bank, unless the Secretary of the Treasury shall otherwise order. By the law, therefore, the Secretary *may* remove the deposits.

“sufficient reasons existed for making the change.” Where? I ask, whenever sufficient reasons existed where? As we read the law, it is whenever sufficient reasons existed in the mind of the Secretary, for the law requires the Secretary to give his reasons to Congress. The writer of the Protest does not so read the law, and yet he seems exceedingly shy of his own reading of it: he is careful not to throw out his whole idea in one sentence, or even in one paragraph; he is careful not to carry out the sentence so as to make it read, “whenever sufficient reasons existed in the mind of the President,” and therefore he carries out the sentence blindly, thus, “whenever sufficient reasons existed,” without saying where or in whose mind. The next paragraph I shall read from, will fill out the sentence and give us the other half of the idea. Its language is this: “During the last year the approaching termination of the Bank of the U. S. made it *expedient*, and its exposed abuses and corruptions made it, *in my opinion*, the duty of the Secretary of the Treasury to place the money in other depositories. The Secretary did not concur in that opinion.” We are now prepared to read out the imperfect sentence of the other paragraph — “It cannot be doubted that it was the legal duty of the Secretary to order the deposits to be made elsewhere than in the Bank of the U. S. whenever sufficient reasons existed,” *in the opinion of the President*, “for making the change.” Having thus brought the two halves of the idea together, the connection between the *opinion* of the President and the *legal duty* of the Secretary, is seen at one glance. The opinion of the President creates the legal duty of the Secretary. “Whenever sufficient reasons existed” in the opinion of the President, “it was the legal duty of the Secretary;” And what is a legal duty, but a *law*? The two words *legal duty*, do not sound so harsh in this connection, as the one word, *law*. It is rather more courteous to say, the opinion of the President was the legal duty of the Secretary, than to say, the opinion of the President was the law for the Secretary. I always prefer using the shortest expression, particularly if it gives the sense more strongly. The opinion of the President, then, was the law for the Secretary. In short, whenever the President chose to drop the word *may*, and to read, the deposits *must* be moved, that became the law. What next? This same paragraph proceeds to tell us, “If in such a case he, (the Secretary,) neglected or refused to act,

“ he would neglect or refuse to execute *the law*.” What law ? What law would the Secretary refuse to execute ? Have you seen any other law yet, but this same law of the President’s opinion ? this *must*, that he reads in the place of *may* ? None. What next ? The paragraph proceeds, “ What then would “ be the sworn duty of the President ? ” Now for the application of the phrase. Certainly nothing less than to execute this law of *his own opinion*, which the Secretary refused to execute. But this law had existed a long time. He had sent this same law, his own opinion, to the preceding Congress, and declared to them that the revenues were not safe in the United States Bank : that Congress, with a majority of his own friends, had returned for answer, not only that they would not execute that opinion, or law, but had treated it with more contumely, certainly, than Mr. Duane showed afterwards, to the same law. They told him that his opinion was groundless, and that the United States Bank was the safest place for the money : they went even to the length of declaring, that the Bank should be re-chartered, and actually passed a bill for that purpose, and sent it to him for his signature. It is true, he put the bill into his pocket, and refused to send it back, lest, as he himself said, the Bank should corrupt a sufficient number of his friends, to pass the bill by two-thirds. A man may take a liberty sometimes with his friends. But why was it not then immediately his duty, to execute this same law of his own opinion ? The language of the Constitution is general : “ He shall take care “ that the laws be faithfully executed.” Is he excusable for not executing *the law*, because Congress entertain a different opinion from him ? There is no such qualification of his duty, in the Constitution. Or is he bound to execute *the law*, only in cases where he has the power of removing the refractory subordinate ? and will he attempt to excuse himself, for not executing *the law*, at once, on the ground that he had not the power to remove Congress ? There is no such qualification of his duty, in the Constitution : that simply provides, “ He shall “ take care that the laws be faithfully executed.” He was just as much bound, by the terms of the Constitution, to execute that law of his own opinion, when Congress refused to do it, as when the Secretary refused to do it. His duty don’t depend at all, by the Constitution, on his power of removal : it simply provides one rule for all cases, “ He shall take care that

“the laws be faithfully executed.” And yet, the President seems to have been willing to think all along, that his opinion was the law, only in cases where he had the power of removing “refractory subordinates :” whereas it is evident, that the Constitution covers the whole ground, and all cases — “He shall take care that the laws be faithfully executed.”

But to return to the execution of *the law*, of his opinion, through the Secretary : — How is he to execute it ? The Secretary having a different understanding of the law from him, tells him — Mr. President, your opinion is not the law of the case, my opinion is the law of the case ; and if you execute your opinion, which is not the law, against my opinion, which is the law, you will certainly not execute the law, but break the law. But, Mr. Secretary, answers the President, (read from the Protest,) “ Might I not be told, that it was for the sole purpose of causing all Executive officers, from the highest to the lowest, faithfully to perform the services required of them by law, that the people of the United States, made me Chief Magistrate ? ” Very true, Mr. President, but am I not faithfully performing the services required of me, by that law which says the deposits shall be made in the United States Bank, unless I shall otherwise order, on reasons to be rendered by me, to Congress : am I not faithfully executing that law, by refusing to remove the money, if I think it safe where it is, and would be unsafe elsewhere ? Why, really, Mr. Secretary, you seem to speak as if the discretion was in you, Sir — you are the mere instrument in my hand, and can the instrument in my hand hold a discretion ? Can the sword in my hand move one way when I direct its movement in another ? Read from the Protest, “ The Constitution has clothed me with the entire Executive power of this Government ; ” and “ the custody of the public money is an Executive function which has always been exercised (by the Executive he would say,) through the Secretary of the Treasury ” (as his mere instrument). And if Congress thought they could alter this state of things and vest an independent discretion in my mere instrument, they did not understand the Constitution nor the laws. (Read from the Protest.) “ It is not to be considered that this provision in any degree altered the relation between the Secretary of the Treasury, and the President as the responsible head of the Executive department.” I tell you, Sir, it is my sworn duty

faithfully to execute the law — that the deposits *must* be moved, “even in the painful alternative” (in the language of the protest) “of dismissing the head of one of the departments,” and “supplying his place with one whose opinions are well “known to me.” If I cannot execute this law of my opinion at *one* move, *through* you, I can execute it at *two* moves, *one* move *of* you, and another move *through* my mere instrument Taney. And it would be strange indeed, if the President could not find one mere instrument in the United States, one man who would agree to think as he did. I stop for a moment, to inquire, how does the doctrine of the Protest agree with the language used to Mr. Duane, when it was expected that *the law* would be executed through him, “I certainly will not undertake to interfere with the independent exercise of your discretion.”

And now, Fellow-citizens, I ask again, what law did he execute? I ask the whole host of his supporters, what law did he execute? Has any man attempted to tell us? Was there a law which said the deposits must be moved?—There was such a law. It passed directly from the White house, to the apartment of Mr. Duane, the day after his appointment, by the hand of that special agent, Reuben M. Whitney, a member of the lower Cabinet, “The President has determined that “the deposits *must* be moved; call it *my* measure; I take the “responsibility.” This was *the law* he executed: no other, than *his own must*. And a press exists among us, which has had the audacity to insult the understanding of the American people, by offering, in justification of such an act, the language of the Constitution, “He, (the President,) shall take “care that the laws be faithfully executed.” Is there a man here, who is yet willing to be called a Jackson man? Let him stand out and tell me, what other law did he execute, than his own opinion, — “in *my opinion*, it was the *legal duty* of the “Secretary,” &c.: “if in such case he refused, he would “refuse to execute the law,” and “what would then be the “sworn duty of the President?”

And is it come to this? Is the Executive first to declare the law, and then tell us it is his sworn duty to execute it? What prevents one universal burst of execration, from one end of the land to the other? But one answer can be given, and that is to be found in the incredulity of men, aided by a corrupt press, to divert their attention from the true question,

by such senseless cries, as the cry of "Bank or no Bank," and a standing corps of disciplinarians, distributed among us, to echo the cry through the whole land, "Bank or no Bank." And this is but another exhibition of the prodigious and controlling effects of the power of creating and filling vacancies, in the hands of a man who will make the most of it. Under a systematic exercise of this power, we have now reached a period in our history, when, possibly, a corrupt administration cannot be put down, because its very corruption has secured the means of preventing the truth from having its proper effect upon public sentiment.

How shall I speak with sufficient indignation of this body of political heresy! How express my amazement that any man should dare proclaim such doctrines to the American people! If an American who understands the case, *can subscribe to these doctrines*, let him erase the 4th of July from his calendar.

If the doctrines of this protest be true, then this people — the American people — the purchase of whose rights cost seventy-five thousand of the lives of their ancestors, have found a sovereign. In this number, I do not include the lives of those Americans who, in that struggle, ranged themselves on the side of Executive power. Seventy-five thousand Whig lives, were poured forth in that glorious struggle; and is a generation of Whigs but one remove from such an ancestry, to be reconquered in 50 years, to a subjection to one sovereign will?

Fellow-citizens, this period of time will stand out in the history of our country, and this generation will be conspicuous, either for successful resistance to Executive encroachment, or for shameful recreancy in the cause of Constitutional Government. Can any man shut his eyes to the fact, that the present posture of our affairs, is such as never before existed? and the claim of power on the part of the present Executive, such as has never before been made? What former President, ever dream't of such pretensions to power? And will not men's indignation kindle at the recollection, that the man claiming and exercising this before unheard of power, is a soldier, and that he boldly and unblushingly relies upon the usurper's reason, *it is expedient*? And do not men blush for their country, at the reason of expediency that he dares to assign — that money is the great corrupter of the American people, and that he will not be responsible for their morals, if their

money is under any other, than his own control ? that they shall no longer have an agent, constituted by themselves, through their Legislature, (and which they have had for near forty years, under two laws,) to keep safe, and transmit the public revenues, and establish an equal currency, *because*, mark his reasons, *because, it will corrupt the people's morals !* How have the people been prepared to receive, from the President, such an indignity ! I answer, by the power of the Press. And I here beg leave to introduce a short extract in relation to the Press, from an address written two years ago, by the speaker, to be delivered in this place. This engine, (the Press,) with enlightened public opinion for its moving power, is of force to redeem the world. It has carried the hand writing on the wall, to the very chambers of despotic power. It has swayed the thrones of tyrants, and rocked Europe with convulsions. But this same engine, without the balance wheel of moral principle, would soon acquire a momentum beyond the reach of check, and then sweep on in its tremendous career, leaving nothing but desolation in its train. A free press without the check of moral principle, by its power to move the passions of men, is capable of carrying them to that point of licentiousness, at which they would be ready to throw off the restraints even of a free Government. While, therefore, a free and virtuous press, might act with so much power on the nations of the earth, a corrupt press, might soon sow the seeds of our own dissolution. Then follows a remark to which I call your attention : there seems to have been something prophetic in it : And whenever the press shall have become the hireling of power, then you may soon expect to find, that power has cut itself loose from all Constitutional limit.

And now, Fellow-citizens, is there not something in the posture of our affairs, suited to present to the mind, the melancholy reflection, that even here, a failure of Free Government is possible ? not for the want of purity and energy in our institutions, but, for the want of purity and fidelity in those who administer them, and of fidelity, in the people, to their own institutions ? But if, under such a Constitution, with a continent to ourselves, and out of the reach of the millions of bayonets that govern for Kings, we fail, in what portion of the earth, in what period of time, and under what condition of

the human mind, shall the experiment of free institutions, succeed? It must succeed here — it cannot fail here, unless the people fail to be true to themselves. Temporary embarrassments may occur, from the restlessness of man, or from recreancy in some department of power : but these embarrassments can only be temporary, unless the people support the recreant department. There is still a redeeming spirit in our institutions, a residuum of power in the hands of the people, to be exercised at short intervals, which can rescue both themselves and the Constitution, from the grasp of lawless power.

